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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/699,980 | 11/03/2003 | Takaya Ono | 450100-04807 | 5334 |

7590 06/04/2007
FROMMER LAWRENCE & HAUG LLP
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NEW YORK, NY 10151

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| EXAMINER |
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SHIBRU, HELEN

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| ART UNIT | PAPER NUMBER |
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2621

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06/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/699,980

Applicant(s)

ONO ET AL.

Examiner

HELEN SHIBRU

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-14, 16-22 and 24 is/are rejected.
- 7) ☒ Claim(s) 7, 15 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>02/23/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6, 8-14, 16-22 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Tsumagari (US Pat. No. 6,556,773).

Regarding claim 1, Tsumagari discloses an information processing apparatus for scheduling order of data reading from a recording medium, comprising: first sorting means for sorting data items recorded on the recording medium based on playback times of the data items (see col. 30 lines 1-9, col. 31 lines 34-42 and figs. 35-37, playback times are sorted); and second sorting means for sorting the data items sorted by the first sorting means based on recording positions of the data items on the recording medium, and using the sorting result as a result of scheduling the order of data reading from the recording medium (see col. 30 lines 10-67, col. 31 lines 43-52 and figs 39-40, entry point is selected).

Regarding claim 2, Tsumagari discloses at least one of video data and audio data is recorded in predetermined units on the recording medium (see abstract).

Regarding claim 3, Tsumagari discloses the video data and the audio data in the predetermined units are alternately recorded on the recording medium (see col. 24 line 58-col. 25 line 11 and col. 29 lines 22-29).

Regarding claim 4, Tsumagari discloses the first sorting means comprises: first detecting means for detecting, from data items which have not been moved yet to a first queue among the data items recorded on the recording medium, a data item having earliest playback time (see fig. 14, time searched, and col. 21 lines 17-65); and first moving means for moving and storing the data item detected by the first detecting means in the first queue (see figs. 38-42, menu displayed).

Regarding claim 5, Tsumagari discloses the second sorting means comprises: setting means for setting a schedule window corresponding to a range of the data items stored in the first queue, the range of the data items being subject to sorting based on the recording positions of the data items on the recording medium (see figs 35-37, 39, 41-42 and 47); second detecting means for detecting, based on the recording positions of the data items on the recording medium, from the range of the data items in the schedule window, a data item to be moved to a second queue (see figs 35-37, programs are recorded on selected position); and second moving means for moving the data item detected by the second detecting means to the second queue (see fig. 39 where it shows selected programs displayed).

Regarding claim 6, Tsumagari discloses the second sorting means further comprises first determination means for determining whether or not the second queue is empty (see figs. 9 and 25, and col. 19 lines 31-35); and when the second queue is empty, the second detecting means detects, from the range of the data items in the schedule window, a data item which has an initial recording position on the recording medium (see col. 19 line 36-col. 20 line 6 and col. 30 lines 31-39).

Regarding claim 8, Tsumagari discloses the second sorting means further comprises third determination means for determining whether or not the data item moved to the second queue has been positioned at the start of the schedule window (see figs 39 and 46); and when the data item moved to the second queue has been positioned at the start of the schedule window, the setting means resets the schedule window (see figs 46-47, the schedule is changed after erasure).

Claims 9-14 and 16 are rejected for the same reason as discussed in claims 1-6 and 8 respectively.

Claims 17-22 and 24 are rejected for the same reason as discussed in claims 1-6 and 8 respectively. See also col. 8 lines 1-24 and col. 24 lines 11-22.

Allowable Subject Matter

3. Claims 7, 15, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 7, 15, and 23, the Prior Art fails to teach or suggest either singularly or in combination the method and apparatus of claims 1, 9 and 17 including “when the second queue is not empty, and the range of the data items in the schedule window does not include a data item recorded behind the recording position on the recording medium of the end data item of the second queue, the second detecting means detects, from the range of the data items in the schedule window, a data item which has an initial recording position on the recording medium; and when the second queue is not empty, and the range of the data items in the schedule window includes a data item which is recorded behind the recording position on the recording medium of

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the end data item of the second queue, the second detecting means detects, from the range of the data items in the schedule window, a data item which is recorded behind the recording position on the recording medium of the end data item of the second queue and which is closest to the recording position on the recording medium of the end data item of the second queue.”

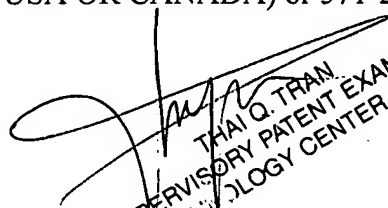
Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571) 272-7329. The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Helen Shibru


THAI Q. TRAN
SUPERVISORY PATENT EXAMINER
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